

Nov 13, 1984

MEMORANDUM

SUBJECT: Incineration-At-Sea Regulations

FROM: Lee M. Thomas
Assistant Administrator

TO: Milton Russell
Assistant Administrator
Office of Policy Planning and Evaluation

We have completed our Red Border Review of the Incineration-At-Sea proposed regulations. While this memorandum constitutes Red Border Review concurrence we do have a number of concerns with the proposed rule.

Our concerns focus on the inconsistencies between the proposed rule and the RCRA land based incinerator standards. It is our understanding that the Office of Water's mandates under MPRSA and LDC require them to regulate the "dumping" of all substances in the ocean. This is far broader authority and covers a much larger universe of substances than RCRA. Consequently, we can understand why they have made the requirements complex. Should the Agency, however, propose a different set of standards for at-sea incineration without adequate explanation of the differences in mandates among RCRA MPRSA and LDC, our well established incineration regulatory and permit program could be adversely affected. This is especially true with the waste analysis requirements. While the regulatory differences between respective regulations may not be great and the environmental differences may be nil, the perception of these differences could launch us into a morass of petitions and suits. We believe a better, more thorough explanation of the requirements and authorities under LDC and MPRSA could avoid this situation.

It is our understanding that our staffs are already working together to resolve many of these issues. Rather than including the many minor comments we have with the proposed regulation in this concurrence memorandum, we suggest our staffs continue to work together. We do not believe the package contains any irreconcilable differences.

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